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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,241	04/09/2004	Sylvester Russo	0153-1	1749

25901 7590 11/14/2006

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EXAMINER

DURHAM, NATHAN E

ART UNIT PAPER NUMBER

3765

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,241

Applicant(s)

RUSSO, SYLVESTER

Examiner

Nathan E. Durham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 and 7 is/are allowed.
- 6) ☒ Claim(s) 5, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's amendments and arguments, filed 18 October 2006, have been reviewed and considered. Claims 2-6 have been amended, claim 1 has been cancelled and claims 7-9 have been added. Therefore claims 2-9 are currently pending. In view of the applicant's arguments and amendments, the prior art rejections raised in the first Office Action are withdrawn. However, an updated search and further review of the prior art of record has prompted the presentation of the following rejections.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two different types of locking means and corresponding features (i.e. "teeth", "tab held by spring tension" and "spring-loaded bar") for preventing accidental alteration of data must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 103

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over STUTZMAN (U.S. Patent 4,886,010) in view of ANKER (U.S. Patent 4,173,197).

Regarding claim 5, STUTZMAN discloses a thumb wheel recording system (10) capable of recording the cleaning date (52 and 42), the last wear date (26 and 22, 32 and 28) and the number of times an article of clothing has been worn (44 and 12) (Fig. 4 and Fig. 5). The cleaning date is being interpreted as a particular month and the last wear date is being interpreted as a particular year. STUTZMAN shows attachment means for permanently attaching the recording system to a clothes hanger (Col. 5, Lines 5-8; Fig. 6). STUTZMAN discloses three recording means (shown in figure below) for the purposes as discussed above. The phrases located in parts a, b and c of claim 1 following the structural statements (comprising the first recording means, second recording means and third recording means) are purely functional and provide

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no further structure. In applicant's claim 5, lines 19-21 will not be considered because these lines only disclose functional language and provide no structure.

SUTZMAN teaches a smart hanger comprising of a thumb wheel recording system as discussed above. However, SUTZMAN fails to disclose the wheel recording system being made of a rustproof moisture resistant plastic material or any particular material. It is a common practice in the art to create such a recording system out of a material such as plastic or aluminum (each material is commonly considered rustproof and moisture resistant) because of lower costs, ease of production, longer life cycle, and to provide less weight on the system. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have produced the recording system of SUTZMAN as a rustproof plastic material to allow for easy production (molded), lower material costs, longer life cycle, and less weight on the system.

SUTZMAN teaches a smart hanger comprising of a thumb wheel recording system as discussed above. However, SUTZMAN fails to disclose the locking means including a plastic tab permanently attached to the hanger by spring tension. ANKER teaches a recording device that includes locking means (220) that prevent accidental rotation of a thumbwheel (40) by pressing a thumbwheel against a plastic tab (220) that is permanently attached to the system by spring tension (Fig. 1) (Col. 5, Lines 35-53). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to have provided the thumb wheel recording system of STUTZMAN with a tab attached with spring tension using friction related locking means, in light of

the teachings of ANKER, in order to a simple system that uses a slight force against the thumb wheels to prevent accidental rotation.

Regarding claim 8, SUTZMAN discloses a smart hanger system comprising a wheel recording system as discussed above. SUTZMAN teaches a second recording means, in a form of a thumb wheel, containing numeric indicia from 0 through 24. However, SUTZMAN does not disclose the second recording means comprising two thumb wheels, each of which has numerical indicia comprising numbers 0 through 9. Applicant has not disclosed that having two thumb wheels, instead of one further solves any stated problem or is for any particular purpose. Applicant has also not disclosed that having a numerical range from 0 through 9 (total range from 0 to 99 for combination of wheels) solves any stated problem or is for any particular purpose besides applicant's preference. Moreover, it appears that the second recording, as taught in STUTZMAN, would perform equally well with only one thumb wheel consisting of indicia with a numerical range from 0 through 24 to allow for the user to count the number of times a garment on the clothes hanger has been worn.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the wheel recording system of STUTZMAN with two thumb wheels, each consisting of numerical indicia from 0 through 9 because it appears to be an arbitrary design consideration which fails to patentably distinguish over STUTZMAN.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over STUTZMAN (U.S. Patent 4,886,010) in view of RUDDUCK (U.S. Patent 3,030,016).

STUTZMAN discloses a thumb wheel recording system (10) capable of recording the cleaning date (52 and 42), the last wear date (26 and 22, 32 and 28) and the

5 number of times an article of clothing has been worn (44 and 12) (Fig. 4 and Fig. 5).

The cleaning date is being interpreted as a particular month and the last wear date is

being interpreted as a particular year. STUTZMAN shows attachment means for

permanently attaching the recording system to a clothes hanger (Col. 5, Lines 5-8; Fig.

6). STUTZMAN discloses three recording means (shown in figure below) for the

10 purposes as discussed above. The phrases located in parts a, b and c of claim 6

following the structural statements (comprising the first recording means, second

recording means and third recording means) are purely functional and provide no

further structure. In applicant's claim 6, lines 19-21 will not be considered because

these lines only disclose functional language and provide no structure.

15 SUTZMAN teaches a smart hanger comprising of a thumb wheel recording

system as discussed above. However, SUTZMAN fails to disclose the wheel recording

system being made of a rustproof moisture resistant plastic material or any particular

material. It is a common practice in the art to create such a recording system out of a

material such as plastic or aluminum (each material is commonly considered rustproof

20 and moisture resistant) because of lower costs, ease of production, longer life cycle,

and to provide less weight on the system. Accordingly, it would have been obvious to

one having ordinary skill in the art at the time the invention was made to have produced

the recording system of SUTZMAN as a rustproof plastic material to allow for easy production (molded), lower material costs, longer life cycle, and less weight on the system.

SUTZMAN teaches a smart hanger comprising of a thumb wheel recording system as discussed above. However, SUTZMAN fails to disclose the locking means including a spring-loaded bar adapted to engage teeth on the thumb wheels.

RUDDUCK teaches a recording device that uses a spring-loaded bar (30) adapted to engage teeth on thumb wheels in order to prevent accidental rotation of the thumb wheels (Fig. 3 and Fig. 4) (Col. 2, Lines 9-14). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to have provided the thumb recording system of STUTZMAN with locking means including a spring-loaded bar engaging teeth of the thumb wheels, in light of the teaches of RUDDUCK, in order to allow a simple system that prevents the accidental rotation of the thumb wheels.

Regarding claim 9, SUTZMAN discloses a smart hanger system comprising a wheel recording system as discussed above. SUTZMAN teaches a second recording means, in a form of a thumb wheel, containing numeric indicia from 0 through 24.

However, SUTZMAN does not disclose the second recording means comprising two thumb wheels, each of which has numerical indicia comprising numbers 0 through 9.

Applicant has not disclosed that having two thumb wheels, instead of one further solves any stated problem or is for any particular purpose. Applicant has also not disclosed that having a numerical range from 0 through 9 (total range from 0 to 99 for combination of wheels) solves any stated problem or is for any particular purpose besides applicant's

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preference. Moreover, it appears that the second recording, as taught in STUTZMAN, would perform equally well with only one thumb wheel consisting of indicia with a numerical range from 0 through 24 to allow for the user to count the number of times a garment on the clothes hanger has been worn.

5 Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the wheel recording system of STUTZMAN with two thumb wheels, each consisting of numerical indicia from 0 through 9 because it appears to be an arbitrary design consideration which fails to patentably distinguish over STUTZMAN.

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Conclusion

The prior art made of record, as cited on attached PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the
15 examiner should be directed to Nathan E. Durham whose telephone number is (571) 272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number
20 for the organization where this application or proceeding is assigned is 571-273-8300.

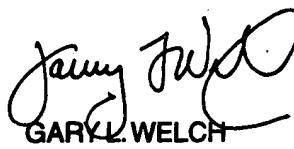
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

- 5 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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NED


GARY L. WELCH
PRIMARY EXAMINER